

Amendment and Response

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Serial No.: 10/729,221

Confirmation No.: 9546

Filed: 5 December 2003

For: DENTAL MATERIAL STORAGE & DELIVERY SYSTEM & METHOD

Remarks

The Office Action mailed 1 November 2005 has been received and reviewed. Claims 1 and 11 having been amended, the pending claims are claims 1-25. Reconsideration and withdrawal of the rejections are respectfully requested.

Claim 1 has been amended to recite "inserting the proximal segment of the applicator tip into the tip retention section of the bore through the distal open end . . . introducing a desired amount of dental material into the bore through the distal open end after inserting the proximal segment of the applicator tip into the tip retention section of the bore." This amendment is supported, for example, on page 12, lines 24-29 and page 13, lines 19-20 of the specification.

Claim 11 has been amended to recite "an elongated handle having a proximal end and a distal end, the handle having a generally cylindrical bore extending proximally therein from the distal end within a surrounding wall of the handle, the bore having a proximal section with a proximal closed end and a distal section with a distal open end . . . the proximal segment of the applicator is nonremoveably frictionally mounted within the proximal section of the bore proximate the proximal closed end . . . the distal tip segment of the applicator extends into the distal section of the bore towards the distal open end . . . [and] a cap mounted to the handle adjacent the distal end thereof to seal off the distal open end of the distal section of the bore." This amendment is supported, for example, by original claim 1 and Figure 3.

U.S. Patent No. 6,592,280 B3 to Petrich et al. (Petrich '280)

Although Applicant addresses the substance of the rejections based on U.S. Patent No. 6,592,280 B3 to Petrich et al. herein, Applicant hereby expressly reserves the right to remove the patent as a reference at a later date.

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Objection to the Specification

The Examiner objected to informalities in the Specification. Specifically, the Examiner asserted that the "first paragraph on page 7 states that the inner diameter of proximal section 36 of the bore is larger than the outer diameter of the applicator's proximal segment 54. However, a proper interference fit is created when the diameter of the inserted applicator is larger than that of the bore it is inserted into. Examiner suspects the disclosure meant to say the opposite of what it did say with respect to the relative sizes of the diameters" (e.g., page 2, Non-Final Office Action mailed 1 November 2005). Applicant respectfully disagrees.

Applicant respectfully submits that the *interference fit* is formed by the *radial projections 60* and the inner surface of the *handle wall 34*, and not between the outer diameter of the *proximal segment 54* and the inner surface of the *handle wall 34*. For example, the Specification recites that "radial projections 60 are sized to form an interference fit with an inner diameter of the proximal section 36 of the bore 32, i.e., the inner surface of handle wall 34 . . . The inner diameter of the proximal section 36 of the bore 32 is about 0 mm to about 0.2 mm larger than the outer diameter of the proximal segment 54, thereby facilitating an *interference fit between the radial projections 60 and the handle 22*" (e.g., page 7, lines 3-9, present specification, emphasis added).

As such, Applicant respectfully requests consideration and withdrawal of the objection.

The 35 U.S.C. §102 Rejections

Claims 11, 15, and 20-21 were rejected under 35 U.S.C. §102 as being anticipated by Petrich et al. (U.S. Patent No. 6,592,280, referred to herein as "Petrich '280"). Claim 11 has been amended as discussed herein. To the extent the rejection applies to claim 11 (as amended) and dependent claims 15 and 20-21, Applicant respectfully traverses the rejection.

"[F]or anticipation under 35 U.S.C. §102, the reference must teach *every aspect* of the

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claimed invention either explicitly or impliedly." M.P.E.P. §706.02 (emphasis added).

Applicant respectfully submits that claim 11 (as amended) and dependent claims 15 and 20-21 are not anticipated by Petrich '280 because such document does not teach each and every aspect of the rejected claims. For example, Petrich '280 discloses a "container and applicator assembly [that] includes an applicator with a handle and a dispensing tip, and a container with a chamber that detachably receives at least part of the applicator" (e.g., abstract). Petrich '280 further discloses a handle 18 and a container 14 with a solid distal end. (See, e.g., Fig. 2).

Applicant respectfully submits, however, that Petrich '280 does not disclose "an elongated handle having a proximal end and a distal end, the handle having a generally cylindrical bore extending proximally therein from the distal end within a surrounding wall of the handle, the bore having a proximal section with a proximal closed end and a distal section with a distal open end . . . the proximal segment of the applicator is nonremoveably frictionally mounted within the proximal section of the bore proximate the proximal closed end . . . the distal tip segment of the applicator extends into the distal section of the bore towards the distal open end . . . [and] a cap mounted to the handle adjacent the distal end thereof to seal off the distal open end of the distal section of the bore" (e.g., claim 11, as amended).

For at least these reasons, Applicant respectfully submits that claim 11 (as amended) and dependent claims 15 and 20-21 are not anticipated by Petrich '280. Applicant respectfully requests reconsideration and withdrawal of this rejection under 35 U.S.C. §102.

Claims 11 and 15 were also rejected under 35 U.S.C. §102 as being anticipated by Petrich et al. (U.S. Patent No. 6,413,087 referred to herein as "Petrich '087"). Claim 11 has been amended as discussed herein. To the extent the rejection applies to claim 11 (as amended) and dependent claim 15, Applicant respectfully traverses the rejection.

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Applicant respectfully submits that claim 11 (as amended) and dependent claim 15 are not anticipated by Petrich '087 because such document does not teach each and every aspect of the rejected claims. For example, Petrich '087 discloses an "applicator assembly includes an applicator having a tip and a cap initially extending over the tip and detachably connected to the applicator" (e.g., abstract). Petrich '087 further discloses a handle 26 and a cap 24 with a solid distal end. (See, e.g., Fig. 2).

Applicant respectfully submits, however, that Petrich '087 does not disclose "an elongated handle having a proximal end and a distal end, the handle having a generally cylindrical bore extending proximally therein from the distal end within a surrounding wall of the handle, the bore having a proximal section with a proximal closed end and a distal section with a distal open end . . . the proximal segment of the applicator is nonremoveably frictionally mounted within the proximal section of the bore proximate the proximal closed end . . . the distal tip segment of the applicator extends into the distal section of the bore towards the distal open end . . . [and] a cap mounted to the handle adjacent the distal end thereof to seal off the distal open end of the distal section of the bore" (e.g., claim 11, as amended).

For at least these reasons, Applicant respectfully submits that claim 11 (as amended) and dependent claim 15 are not anticipated by Petrich '087. Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §102.

The 35 U.S.C. §103 Rejections

Claims 11-15 and 20-21 were rejected under 35 U.S.C. §103 as being unpatentable over Prantis Jr. et al. (U.S. Patent No. 5,860,806) in view of Petrich '280. Claim 11 has been amended as discussed herein. To the extent the rejection applies to claim 11 (as amended) and dependent claims 12-15 and 20-21, Applicant respectfully traverses the rejection.

"To establish a *prima facie* case of obviousness . . . the prior art reference (or references

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when combined) must teach or suggest all the claim limitations." M.P.E.P. §2143.

Applicant respectfully submits that the cited documents do not teach or suggest all of the features recited in the rejected claims. For example, Prantis Jr. et al. discloses a "dental adhesive delivery system provides a single usage amount of dental adhesive in a non-resealable container for use in treating a single patient" (e.g., abstract). Prantis Jr. et al. further discloses that the single dose adhesive package 10 "includes a filled single dose adhesive capsule 11 and an adhesive *application wand* 12 sealed in a plastic and foil pouch 13. The inclusion of the wand 12 in the package 10 is optional" (e.g., column 5, lines 33-39, emphasis added). However, it was asserted in the Office Action that "the proximate segment of the *applicator* is nonremovably frictionally mounted with the proximal section of the bore" (e.g., page 5, Office Action mailed 1 November 2005, emphasis added). Applicant respectfully disagrees.

Applicant respectfully submits that the optional application wand 12 is not nonremovably frictionally mounted with the proximal section of the bore because it is provided separately from the container. (See, e.g., Fig. 1 and related description at column 6, line 66 to column 7, line 14).

Further, Applicant respectfully submits that Prantis Jr. et al. does not disclose "an elongated handle having a proximal end and a distal end, the handle having a generally cylindrical bore extending proximally therein from the distal end within a surrounding wall of the handle, the bore having a proximal section with a proximal closed end and a distal section with a distal open end . . . the proximal segment of the applicator is nonremoveably frictionally mounted within the proximal section of the bore proximate the proximal closed end . . . the distal tip segment of the applicator extends into the distal section of the bore towards the distal open end . . . [and] a cap mounted to the handle adjacent the distal end thereof to seal off the distal open end of the distal section of the bore" (e.g., claim 11, as amended).

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The deficiencies of Petrich '280 have been discussed above with respect to the 35 U.S.C. §102 rejection. Applicant respectfully submits that Petrich '280 does not provide subject matter missing from the disclosure of Prantis, Jr. et al.

Nor has any motivation or suggestion been identified that would lead one of ordinary skill in the art to modify the cited reference to reach the inventions recited in claims 11-15 and 20-21.

For at least these reasons, Applicant respectfully submits that a *prima facie* case of obviousness has not been established with respect to claim 11 (as amended) and dependent claims 12-15 and 20-21 over Prantis, Jr. et al. in view of Petrich '280. Applicant respectfully requests reconsideration and withdrawal of this rejection under 35 U.S.C. §103.

Claims 16-17 were rejected under 35 U.S.C. §103 as being unpatentable over Petrich '280 in view of Walz et al. (European Patent Application Publication No. EP 1121905 A2). Claim 11 has been amended as discussed herein. To the extent the rejection applies to dependent claims 16-17, Applicant respectfully traverses the rejection.

Applicant respectfully submits that the cited documents do not teach or suggest all of the features recited in the rejected claims. For example, Walz et al. discloses a "storage stable dental composition comprising a volatile organic solvent and a polymerizable material enclosed by a package, which includes a closure, such as a cover or plug and a container made of a copolymer of a cycloolefin and an open chain olefin" (e.g., abstract).

Applicant respectfully submits, however, that Walz et al. does not disclose "an elongated handle having a proximal end and a distal end, the handle having a generally cylindrical bore extending proximally therein from the distal end within a surrounding wall of the handle, the bore having a proximal section with a proximal closed end and a distal section with a distal open end . . . the proximal segment of the applicator is nonremoveably frictionally mounted within the proximal section of the bore proximate the proximal closed end . . . the distal tip segment of the

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applicator extends into the distal section of the bore towards the distal open end . . . [and] a cap mounted to the handle adjacent the distal end thereof to seal off the distal open end of the distal section of the bore" (e.g., claim 11, as amended).

The deficiencies of Petrich '280 have been discussed above with respect to the 35 U.S.C. §102 rejection. Applicant respectfully submits that Walz et al. does not provide subject matter missing from the disclosure of Petrich '280.

Nor has any motivation or suggestion been identified that would lead one of ordinary skill in the art to modify the cited reference to reach the inventions recited in claims 16-17.

For at least these reasons, Applicant respectfully submits that a *prima facie* case of obviousness has not been established with respect to claims 16-17 over Petrich '280 in view of Walz et al. Applicant respectfully requests reconsideration and withdrawal of this rejection under 35 U.S.C. §103.

Claims 18-19 were rejected under 35 U.S.C. §103 as being unpatentable over Petrich '280 in view of Rogers (U.S. Patent No. 5,848,894). Claim 11 has been amended as discussed herein.

To the extent the rejection applies to dependent claims 18-19, Applicant respectfully traverses the rejection.

Applicant respectfully submits that the cited documents do not teach or suggest all of the features recited in the rejected claims. For example, Rogers discloses a "cartridge for delivery of non-aqueous paste dental materials is provided, wherein the cartridge comprises a cartridge body made from an injection moldable material comprising amorphous polyolefin polymers" (e.g., abstract).

Applicant respectfully submits, however, that Rogers does not disclose "an elongated handle having a proximal end and a distal end, the handle having a generally cylindrical bore extending proximally therein from the distal end within a surrounding wall of the handle, the

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bore having a proximal section with a proximal closed end and a distal section with a distal open end . . . the proximal segment of the applicator is nonremoveably frictionally mounted within the proximal section of the bore proximate the proximal closed end . . . the distal tip segment of the applicator extends into the distal section of the bore towards the distal open end . . . [and] a cap mounted to the handle adjacent the distal end thereof to seal off the distal open end of the distal section of the bore" (e.g., claim 11, as amended).

The deficiencies of Petrich '280 have been discussed above with respect to the 35 U.S.C. §102 rejection. Applicant respectfully submits that Rogers does not provide subject matter missing from the disclosure of Petrich '280.

Nor has any motivation or suggestion been identified that would lead one of ordinary skill in the art to modify the cited reference to reach the inventions recited in claims 18-19.

For at least these reasons, Applicant respectfully submits that a *prima facie* case of obviousness has not been established with respect to claims 18-19 over Petrich '280 in view of Rogers. Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §103.

Claims 1-6 and 22-25 were rejected under 35 U.S.C. §103 as being unpatentable over Prantis, Jr. et al. (U.S. Patent No. 5,860,806) in view of Petrich '280 as applied to claims 11-15 and 20-21 above, and further in view of Pieper et al. (U.S. Patent Publication No. 2001/0019680). Claims 1 and 11 have been amended as discussed herein. To the extent the rejection applies to amended claims 1 and 11 and dependent claims 2-6 and 22-25, Applicant respectfully traverses the rejection.

Regarding method claims 1-6, Applicant respectfully submits that the cited documents do not teach or suggest all of the recited features. For example, Prantis, Jr. et al. discloses a method of depositing the adhesive 15 into the proximal end of container 14 (*see, e.g.,* Fig. 2, and column

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6, lines 52-53). Petrich '280 discloses similar method of depositing the adhesive in the container 14 (see, e.g., column 7, lines 4-5). Pieper et al. also discloses filling methods in paragraphs [0045] and [0064]. Pieper et al. discloses that "the package 10 includes a handle 12, a stem insert 14, a vial 16, a *bottom plug* 18, a wiper system 20 and an applicator 22, 22" (e.g., [0032], emphasis added).

Applicant respectfully submits, however, that none of Prantis, Jr. et al, Petrich '280, and Pieper et al. disclose "inserting the proximal segment of the applicator tip into the tip retention section of the bore through the distal open end . . . introducing a desired amount of dental material into the bore through the distal open end after inserting the proximal segment of the applicator tip into the tip retention section of the bore" (e.g., claim 1, as amended).

Nor has any motivation or suggestion been identified that would lead one of ordinary skill in the art to modify the cited references to reach the inventions recited in methods claims 1-6.

Regarding system claims 22-25, Applicant respectfully submits that the cited documents also do not teach or suggest all of the features recited in the rejected claims.

The deficiencies of Prantis, Jr. et al. and Petrich '280 have been discussed above with respect to the 35 U.S.C. §103 rejection of claims 11-15 and 20-21. Applicant respectfully submits that Pieper et al. does not provide the subject matter missing from the disclosure of Prantis, Jr. et al. and Petrich '280.

Applicant respectfully submits, for example, that Pieper et al. does not disclose "an elongated handle having a proximal end and a distal end, the handle having a generally cylindrical bore extending proximally therein from the distal end within a surrounding wall of the handle, the bore having a proximal section with a proximal closed end and a distal section with a distal open end . . . the proximal segment of the applicator is nonremoveably frictionally mounted within the proximal section of the bore proximate the proximal closed end . . . the distal tip segment of the applicator extends into the distal section of the bore towards the distal open

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end . . . [and] a cap mounted to the handle adjacent the distal end thereof to seal off the distal open end of the distal section of the bore" (e.g., claim 11, as amended).

Nor has any motivation or suggestion been identified that would lead one of ordinary skill in the art to modify the cited references to reach the inventions recited in system claims 22-25.

For at least these reasons, Applicant respectfully submits that a *prima facie* case of obviousness has not been established with respect to amended claims 1 and 11 and dependent claims 2-6 and 22-25 over Prantis, Jr. et al. in view of Petrich '280 as applied to claims 11-15 and 20-21 above, and further in view of Pieper et al. Applicant respectfully requests reconsideration and withdrawal of this rejection under 35 U.S.C. §103.

Claims 7-8 were rejected under 35 U.S.C. §103 as being unpatentable over Prantis, Jr. et al. (U.S. Patent No. 5,860,806) in view of Petrich '280 and Pieper et al. (U.S. Patent Publication No. 2001/0019680) as applied to claims 1-6 above, and further in view of Walz et al. (European Patent Application Publication No. EP 1121905 A2). Claim 1 has been amended as discussed herein. To the extent the rejection applies to dependent claims 7-8, Applicant respectfully traverses the rejection.

Applicant respectfully submits that the cited documents do not teach or suggest all of the features recited in claims 7-8. The deficiencies of Prantis, Jr. et al., Petrich '280, and Pieper et al. as applied to claims 1-6 have been discussed above with respect to the 35 U.S.C. §103 rejection. Applicant respectfully submits, further, that Walz et al. also does not disclose or suggest "inserting the proximal segment of the applicator tip into the tip retention section of the bore through the distal open end . . . introducing a desired amount of dental material into the bore through the distal open end after inserting the proximal segment of the applicator tip into the tip retention section of the bore" (e.g., claim 1, as amended). As a result, Walz et al. does not

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provide subject matter missing from the disclosure of Prantis, Jr. et al., Petrich '280, and Pieper et al.

Nor has any motivation or suggestion been identified that would lead one of ordinary skill in the art to modify the cited references to reach the inventions recited in claims 7-8.

For at least these reasons, Applicant respectfully submits that a *prima facie* case of obviousness has not been established with respect to dependent claims 7-8 over the Prantis, Jr. et al. in view of Petrich '280 and Pieper et al. as applied to claims 1-6 above, and further in view of Walz et al. Applicant respectfully requests reconsideration and withdrawal of this rejection under 35 U.S.C. §103.

Claims 9-10 were rejected under 35 U.S.C. §103 as being unpatentable over Prantis, Jr. et al. (U.S. Patent No. 5,860,806) in view of Petrich '280 and Pieper et al. (U.S. Patent Publication No. 2001/0019680) as applied to claims 1-6 above, and further in view of Rogers (U.S. Patent No. 5,848,894). Claim 1 has been amended as discussed herein. To the extent the rejection applies to dependent claims 9-10, Applicant respectfully traverses the rejection.

Applicant respectfully submits that the cited documents do not teach or suggest all of the features recited in claims 9-10. The deficiencies of Prantis, Jr. et al. in view of Petrich '280 and Pieper et al. as applied to claims 1-6 have been discussed above with respect to the 35 U.S.C. §103 rejection. Applicant respectfully submits that Rogers does not provide subject matter missing from the disclosure of Prantis, Jr. et al., Petrich '280, and Pieper et al.

For example, Rogers does not disclose or suggest "inserting the proximal segment of the applicator tip into the tip retention section of the bore through the distal open end . . . introducing a desired amount of dental material into the bore through the distal open end after inserting the proximal segment of the applicator tip into the tip retention section of the bore" (e.g., claim 1, as amended).

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Nor has any motivation or suggestion been identified that would lead one of ordinary skill in the art to modify the cited references to reach the inventions recited in claims 9-10.

For at least these reasons, Applicant respectfully submits that a *prima facie* case of obviousness has not been established with respect to dependent claims 9-10 over Prantis, Jr. et al. in view of Petrich '280 and Pieper et al. as applied to claims 1-6 above, and further in view of Rogers. Applicant respectfully requests reconsideration and withdrawal of this rejection under 35 U.S.C. §103.

Claims 1-4, 11, and 22-25 were rejected under 35 U.S.C. §103 as being unpatentable over Prantis, Jr. et al. (U.S. Patent No. 5,860,806) in view of Petrich '280 as applied to claims 11-15 and 20-21 above, and further in view of Gueret (U.S. Patent No. 6,773,187). Claims 1 and 11 have been amended as discussed herein. To the extent the rejection applies to amended claims 1 and 11 and dependent claims 2-4 and 22-25, Applicant respectfully traverses the rejection.

Regarding method claims 1-4, Applicant respectfully submits that the cited documents do not teach or suggest all of the recited features. Like Prantis Jr. et al. and Petrich '280, Gueret also does not disclose or suggest, for example, "inserting the proximal segment of the applicator tip into the tip retention section of the bore through the distal open end . . . introducing a desired amount of dental material into the bore through the distal open end after inserting the proximal segment of the applicator tip into the tip retention section of the bore" (e.g., claim 1, as amended).

Nor has any motivation or suggestion been identified that would lead one of ordinary skill in the art to modify the cited references to reach the inventions recited in method claims 1-4.

Regarding system claims 11 and 22-25, Applicant respectfully submits that the cited documents do not teach or suggest all of the recited features. Like Prantis Jr. et al. and Petrich '280, Gueret also does not disclose or suggest "an elongated handle having a proximal end and a

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distal end, the handle having a generally cylindrical bore extending proximally therein from the distal end within a surrounding wall of the handle, the bore having a proximal section with a proximal closed end and a distal section with a distal open end . . . the proximal segment of the applicator is nonremoveably frictionally mounted within the proximal section of the bore proximate the proximal closed end . . . the distal tip segment of the applicator extends into the distal section of the bore towards the distal open end . . . [and] a cap mounted to the handle adjacent the distal end thereof to seal off the distal open end of the distal section of the bore” (e.g., claim 11, as amended).

Nor has any motivation or suggestion been identified that would lead one of ordinary skill in the art to modify the cited references to reach the inventions recited in system claims 11 and 22-25.

For at least these reasons, Applicant respectfully submits that a *prima facie* case of obviousness has not been established with respect to amended claims 1 and 11 and dependent claims 2-4 and 22-25 over Prantis, Jr. et al. in view of Petrich '280 as applied to claims 11-15 and 20-21 above, and further in view of Gueret. Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §103.

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Summary

It is respectfully submitted that all the pending claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted

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CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 1st day of March, 2006, at 10:27am (Central Time).

By: Name: Rachel Anglin-Gebhardt